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Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ERIC MAAS,
Plaintiff,

vs.

ZYMBE, LLC, a Massachusetts
Limited Liability Company; BLUE
OAR CONSULTING, INC., a
Massachusetts Corporation; VYSTAR
CORPORATION, a Georgia
Corporation; GREG ROTMAN, an
individual; STEVEN ROTMAN, an
individual; SALLY ROTMAN, an
individual; MICHAEL X.
IANACONE, an individual; DR.
KEITH OSBORN, an individual;
BRYAN STONE, M.D., an individual;
JOSEPH ALLEGRA, JR., PH.D., an
individual; JAMIE ROTMAN, an
individual; and DOES 1 through 100,
inclusive,
Defendants.

Case No. 3:19-cv-7945

NOTICE OF REMOVAL

1 **TO THE CLERK OF THE COURT: PLEASE TAKE NOTICE** that
2 Defendants Sally Hawthorne and Michael Ianacone hereby remove to this Court the
3 state court action described below. All other defendants join in this Removal as set
4 forth in the Joinder of Removal filed simultaneously herewith and annexed hereto.

5 **Background Information**

6 1. On or about June 24, 2019, Eric Maas (“Plaintiff”) filed a Second
7 Amended Complaint (the “Complaint”) in the Superior Court of the State of
8 California, County of Alameda, against Defendants (the “State Court Action”).
9 The Complaint is annexed hereto as Exhibit 1.

10 2. The original complaint in the State Court Action asserted a variety of
11 claims against two Defendants, Zymbe, LLC and Greg Rotman. At some point, the
12 original complaint was amended to add Steve Rotman as a Defendant.

13 3. On June 24, 2019, the then-operative complaint in the State Court
14 Action was amended to add the following parties as Defendants: Blue Oar
15 Consulting, Inc., Vystar Corporation, Keith Osborn, Bryan Stone, Joseph Allegra,
16 Jr. and Jamie Rotman. These defendants were served with the Complaint at various
17 times in September and October 2019.

18 4. Plaintiff also named Ranjit Matthan as a party Defendant in the
19 Complaint but subsequently dismissed Mr. Matthan as a party from the State Court
20 Action on November 13, 2019.

21 5. Plaintiff also named Sally Hawthorne and Michael Ianacone as
22 Defendants in the Complaint, but Plaintiff has failed to serve either of them with
23 process as of the date of this Removal.

24 **Timeliness of Removal**

25 6. This Notice of Removal is timely filed because Sally Hawthorne and
26 Michael Ianacone have not been served with a triggering document pursuant to 28
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1 U.S.C. § 1446(b)(3), and neither of them was named as a party to this action or
2 served prior to the Complaint.

3 **Venue**

4 7. Venue is appropriate in the United States District Court for the
5 Northern District of California pursuant to 28 U.S.C. § 1441(a), as this removal has
6 been brought in the district in which the matter was pending in state court.

7 **Federal Question Jurisdiction**

8 8. This action is a civil action that may be removed because this Court has
9 Federal question jurisdiction under 28 U.S.C. § 1331.

10 9. Count Twenty-One in the Complaint asserts a claim against all
11 Defendants under 15 U.S.C. § 771 for violation of Section 12(a)(2) of the Securities
12 and Exchange Act of 1933. Count Twenty-Two of the Complaint asserts a 10b-5
13 claim under the Securities Exchange Act of 1934 against all Defendants.

14 10. Based on the foregoing, this action is properly removable under 28
15 U.S.C. §§ 1331 and 1446.

16 11. A Joinder of Removal that includes consent to Removal for all other
17 Defendants is attached hereto as Exhibit 2.

18 Dated: December 4, 2019

18 Respectfully submitted,
19 MINTZ LEVIN COHN FERRIS GLOVSKY
20 AND POPEO P.C.

21
22 s/ Jennifer B. Rubin

23 By: Jennifer B. Rubin

24 Evan S. Nadel

25 Attorneys for Defendants
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CERTIFICATE OF SERVICE

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of San Diego, State of California, and am not a party to the above-entitled action.

On December 4, 2019, I filed a copy of the foregoing document by electronically filing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all CM/ECF registered users.

Executed on December 4, 2019, at San Diego, California.

Terri L. Mayo

Terri L. Mayo

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